



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**SEP 14 2009**

Jeff Timmer  
Michigan Republican Party  
520 Seymour Avenue  
Lansing, Michigan 48933

RE: MURs 6171/6172  
Kalamazoo County Democratic  
Party Federal Committee and  
Carolyn Cardwell, in her official  
capacity as treasurer  
Allegan County Democratic  
Committee  
Cooney for Congress Committee  
and Robert Snyder, in his official  
capacity as treasurer

Dear Mr. Timmer:

On September 1, 2009, the Federal Election Commission reviewed the allegations in your complaints dated January 21, 2009. In MUR 6171, the Commission found that on the basis of the information provided in your complaint, and information provided by the respondents, there is no reason to believe that the Kalamazoo County Democratic Party Federal Committee and Carolyn Cardwell, in her official capacity as treasurer, and the Cooney for Congress Committee and Robert Snyder, in his official capacity as treasurer, violated the Federal Election Campaign Act of 1971, as amended. In MUR 6172, the Commission voted to dismiss this matter and send a cautionary letter. Accordingly, on September 1, 2009, the Commission closed the file in these matters.

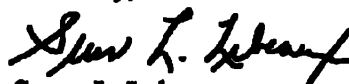
Documents related to the cases will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analyses, which more fully explain the Commission's findings are enclosed.

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Letter to Michigan Republican Party  
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The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,



Susan L. Lebeaux  
Assistant General Counsel

Enclosures  
Factual and Legal Analyses

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1 sources "not in compliance with the prohibitions and limitations of the" Act. MUR 6171  
2 Complaint at 1. The complaint further alleges that because the KCDP contributed a total of  
3 \$5,000 to the Cooney Committee between October 18 and October 31, 2008,<sup>1</sup> the funds used to  
4 contribute to, and accepted by, the Cooney Committee may not have been federally compliant in  
5 violation of the Act and 11 C.F.R. § 110.9.

6 The Cooney Committee responded that it received the contribution, which it states is the  
7 maximum amount allowed by law, and asserts that the KCDP is not a prohibited source and it  
8 has "no knowledge of the KCDP's fundraising efforts." Cooney Committee Response at 1.

9 **2. Legal Analysis**

10 There do not appear to be violations of the Act concerning the amounts, sources or  
11 reporting of the contributions. Political committees are required to keep an account of the name  
12 and address of person who makes any contribution in excess of \$50, together with the date and  
13 amount of any such contribution. 2 U.S.C. § 432(c). There is no information that contributions  
14 that the Cooney Committee received from the KCDP came from a prohibited source. Without  
15 context or any other specific facts, this allegation is merely speculative and does not provide a  
16 sufficient threshold to support reason to believe findings. See Statement of Reasons of  
17 Commissioners Mason, Smith, Sandstrom and Thomas in MUR 44960 (Hillary Rodham Clinton,  
18 issued Dec. 21, 2000). Moreover, the KCDP, as a multicandidate committee, could legally  
19 contribute \$5,000 to the Cooney Committee. See 2 U.S.C. § 441a(a)(2)(A); 11 C.F.R.  
20 §§ 110.2(a)(2)(b), 110.3(b)(3).

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<sup>1</sup> Commission filings show the KCDP made, and the Cooney Committee accepted, three separate contributions in October 2008 totaling \$5,000: \$1,000 on October 18, \$1,700 on October 22, and \$2,300 on October 31.

**B. MUR 6172**

**1. Factual Summary**

The complaint alleges that the Allegan County Democratic Committee ("ACDC") contributed \$1,000 to the Cooney Committee on October 1, 2008, which the Cooney Committee never reported.

The Cooney Committee response states it tried to return the second \$1,000 contribution upon its receipt, but was unable to contact the ACDC's treasurer, who was on vacation. The Cooney Committee states it then tried to report the second contribution, but was unable to do so because the Commission's software "does not allow a State Committee ID number to be used." Cooney Committee Response at 1. The Cooney Committee did not elaborate, but it was evidently able to report the first \$1,000 contribution and the eventual refund of the second \$1,000 contribution. The Cooney Committee claims it used its "best efforts" to contact the ACDC's treasurer and kept enough of an account balance to be able to refund the second contribution from late 2008 through February 2009. The Cooney Committee states that the ACDC's treasurer finally contacted it on February 21, 2009, and the second contribution was refunded shortly thereafter.

The Cooney Committee reported the receipt of the first contribution in its original and amended 2008 October Quarterly Reports, but never reported the receipt of the second contribution. It reported the refund of the second contribution as being made on February 22, 2009, in its 2009 April Quarterly Report. There is no record of the Cooney Committee filing a 48-Hour Report of Contribution for the October 20, 2008, contribution.

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1           **2. Legal Analysis**

2           The Cooney Committee was required to report all contributions received, and to file 48-  
3 hour notices of all contributions of \$1,000 or more that it received after the 20<sup>th</sup> day before, but  
4 more than 48 hours before, a federal election. 2 U.S.C. §§ 434(a)(6)(A), 434(b)(2)(C), (D);  
5 11 C.F.R. § 104.5(f). The Cooney Committee failed to report the ACDC's second \$1,000  
6 contribution from the ACDC and to file a 48-Hour Report of Contribution for the October 20,  
7 2008, contribution.<sup>2</sup> Therefore, it appears that the Cooney Committee violated 2 U.S.C.  
8 §§ 434(a)(6)(A) and (b)(2)(C).

9           Despite the apparent violations by the Cooney Committee's failure to file a 48-Hour  
10 Report of Contribution concerning the ACDC's second \$1,000 contribution and failure to report  
11 the contribution in its 2008 Post-General Election Report, it appears to have always intended to  
12 refund it and did so, and it properly reported the refund.

13           Therefore, the Commission found no reason to believe that the Cooney Committee  
14 violated the Act in MUR 6171 and decided to exercise its prosecutorial discretion and dismiss  
15 the complaint in MUR 6172, and closed the files. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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<sup>2</sup>       Despite the Cooney Committee's claim that it was "thwarted by the FEC's reporting software" because it did not allow a state committee identification number to be used, Cooney Committee Response at 1, according to the Reports Analysis Division, the state number has no bearing on the reporting of contributions using the Commission's reporting software and the Cooney Committee could have just left the space for the identification number blank.

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 **RESPONDENT: Kalamazoo County Democratic Party MUR: 6171**  
6 **Federal Committee and Carolyn Cardwell,**  
7 **in her official capacity as treasurer**  
8

9 **I. INTRODUCTION**

10 This matter was generated by a complaint filed with the Federal Election Commission  
11 ("Commission") by the Michigan Republican Party. *See* 2 U.S.C. § 437g(a)(1). For the reasons  
12 set forth below, the Commission has found that there is no reason to believe that the Kalamazoo  
13 County Democratic Party Federal Committee and Carolyn Cardwell, in her official capacity as  
14 treasurer, ("KCDP") violated the Federal Election Campaign Act of 1971, as amended (the  
15 "Act").

16 **II. FACTUAL SUMMARY**

17 The complaint states that in its 2008 Post-General Report, the KCDP reported a total of  
18 \$11,214.35 in anonymous cash contributions received on seven separate occasions between  
19 October 14 and November 14, 2009, and alleges that the KCDP either knew or should have  
20 known the identity of the contributors. The complaint cites to Advisory Opinion 1991-20 (Call  
21 Interactive) for the proposition that contributions are "not 'anonymous' contributions for the  
22 purposes of 11 C.F.R. 110.4(c)(3)" if the contributors' identities are able to be determined, and  
23 alleges that the contributions may have come from sources not in compliance with the  
24 prohibitions and limitations of the Act. MUR 6171 Complaint at 1. The complaint further  
25 alleges that because the KCDP contributed a total of \$5,000 to the Cooney for Congress  
26 Committee and Robert Snyder in his official capacity as treasurer ("Cooney Committee"),

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1 between October 18 and October 31, 2008,<sup>1</sup> the funds used to contribute to, and accepted by, the  
2 Cooney Committee may not have been federally compliant in violation of the Act and 11 C.F.R.  
3 § 110.9.

4 The KCDP responded that it received many anonymous cash contributions through  
5 "suggested donations" for Barack Obama merchandise that it bought and brought to its  
6 headquarters, including t-shirts (\$10), yard signs (\$5), buttons (\$3) and bumper stickers (\$1), and  
7 that it was not required to collect identifying information on contributors of less than \$50,  
8 including those who made "suggested donations" for merchandise. KCDP Response at 1. The  
9 KCDP also states that it made a \$5,000 contribution, the maximum amount allowed, to the  
10 Cooney Committee, and reported that information. *Id.*

### 11 **III. LEGAL ANALYSIS**

12 There do not appear to be violations of the Act concerning the amounts, sources or  
13 reporting of the contributions. Political committees are required to keep an account of the name  
14 and address of person who makes any contribution in excess of \$50, together with the date and  
15 amount of any such contribution. 2 U.S.C. § 432(c)(2). The KCDP states in its response that it  
16 did not accept \$50 or more from any contributor, and we have no information to the contrary.  
17 Further, the KCDP's aggregating of a number of anonymous contributions under \$50 for  
18 reporting purposes appears to be in compliance with 11 C.F.R. 102.9(a). *See* MUR 5560 (Case  
19 for Congress) FGCR at 8 (citing AOs 1981-48 (Muskegon Republicans) and 1980-99  
20 (Republican Roundup)).

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<sup>1</sup> Commission filings show the KCDP made, and the Cooney Committee accepted, three separate contributions in October 2008 totaling \$5,000: \$1,000 on October 18, \$1,700 on October 22, and \$2,300 on October 31.



1           While the complaint cited AO 1991-20 (Call Interactive) for the proposition that a  
2     contribution is not anonymous if the contributor can be identified, AO 1991-20 is distinguishable  
3     because it involved a 900 telephone call service to be used for soliciting and collecting  
4     contributions *via* electronic means. As the Commission stated in that opinion, "900 line  
5     fundraising programs do not involve truly anonymous contributions such as the small cash  
6     contributions posited in [Advisory Opinion 1980-99]." The situation in this matter involves  
7     actual cash contributions (*i.e.*, currency), which are specifically provided for under the  
8     regulations, and which are specifically permitted to be made anonymously provided that each  
9     such contribution does not exceed \$50. 11 C.F.R. 110.4(c)(3).

10           There is no information that the KCDP accepted contributions over \$50 that were not  
11     properly reported or that any of the contributions came from prohibited sources. Without context  
12     or any other specific facts, this allegation is merely speculative and does not provide a sufficient  
13     threshold to support reason to believe findings. *See* Statement of Reasons of Commissioners  
14     Mason, Smith, Sandstrom and Thomas in MUR 44960 (Hillary Rodham Clinton, issued Dec. 21,  
15     2000). There is also no information, other than mere speculation by the complainant, that  
16     contributions that the Cooney Committee received from the KCDP came from a prohibited  
17     source. *See id.* Moreover, the KCDP, as a multicandidate committee, could legally contribute  
18     \$5,000 to the Cooney Committee. *See* 2 U.S.C. § 441a(a)(2)(A); 11 C.F.R. §§ 110.2(a)(2)(b),  
19     110.3(b)(3).

20           Therefore, the Commission has found that there is no reason to believe that the KCDP  
21     violated the Act, and close the file.